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Applicant: James M. KAIN Conf. No.: 6018
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Filed: October 19, 2001 Examiner: Erika P. Garrett
For: JUVENILE SEAT CUP HOLDER

APPEAL BRIEF

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Sir:

Below is an Appeal Brief in support of an appeal taken from the Final Rejection of Claims 1-17, mailed September 9, 2003. A Notice of Appeal accompanies this Appeal Brief.

1. Real party in interest. All rights in this application have been assigned to Cosco Management, Inc., a corporation existing under the laws of the state of Delaware.
2. Related appeals and interferences. Appellant and undersigned counsel for appellant know of no appeals or interferences related to the present application on appeal.
3. Status of Claims. The application contains Claims 1-17. Claims 1-17 have been rejected under 35 U.S.C. §102(b) as unpatentable over Gignac et al. (U.S. Patent 5,248,183).
4. Status of Amendments. All amendments filed by appellant have been entered and considered by the examiner. On September 9, 2003, a Final Rejection of pending Claims 1-17 was issued. Appellant has not filed an after final amendment. Appellant's notice of appeal accompanies this appeal brief.
5. Summary of the Invention. Juvenile seats and booster seats for use in automobiles are generally known and are in relatively widespread use. The present invention is directed to a juvenile seat having a cup holder coupled to one side of the base for pivotable movement between a closed position and an opened position. The cup holder includes a shell and a cup retainer provided on an inner surface of the shell. The base has a front, a rear, and opposite sides, the seating surface being positioned between the sides.

As shown in Figure 1, a juvenile seat 10 includes a base 12 to be placed upon a vehicle seat or other surface (not shown), the base including a front 18, rear 20, and opposite sides 22. Juvenile seat 10 includes a seating surface 13 between sides 22 and a seat pad 14 coupled to base 12. Juvenile seat 10 illustratively includes armrests 16 extending upwardly from sides 22 adjacent rear 20 of base 12.

Juvenile vehicle seat 10 further includes a cup holder 28 pivotably coupled to base 12 and movable between a closed position as shown in Figure 1 and an opened position as shown in Figure 2. Base 12 includes a cavity 30 formed in outwardly facing wall 26 of one of sides 22 to receive cup holder 28 in the closed position. Illustratively, first and second interior walls 32, 34 extend from outwardly facing wall 26 toward inwardly facing wall 24 on each side of cavity 30. Outwardly facing wall 26 includes a support edge 36 to support cup holder 28 in the opened position, as best observed in Figure 3.

Cup holder 28 is pivotably coupled to base 12. As shown in Figure 4, a first post 50 extends from first interior wall 32 into cavity 30 and a second post 52 extends from second interior wall 34 into cavity 30 and toward the first post.

6. Issues on appeal. Whether Claims 1-17 are anticipated under 35 U.S.C. §102(b) over Gignac et al. (U.S. Patent 5,248,183).

7. Grouping of Claims. Claims 4 and 5 stand or fall with claim 1. Each of Claims 2-3 and 6-17 stand or fall separately.

8. Copy of the Claims. A copy of the Claims on appeal is attached to this brief as an Appendix.

9. Argument.

Anticipation Under 35 U.S.C. §102

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently.¹ A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.² See MPEP §2131.

¹ See *In re Schreiber*, 128 F.3d 1473, 1477, 44 U.S.P.Q 2d 1429, 1431 (Fed. Cir. 1997).

² *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q 2d 1051, 1053 (Fed. Cir. 1987).

The 35 U.S.C. §102(b) Rejection of Claims 1-17

For the reasons that follow it is evident that Gignac et al. does not disclose the limitations of appellant's Claims 1-17.

Gignac et al. discloses a swing out container holder provided as part of a vehicle armrest or console. As seen in Figs. 1-3 assembly 10 generally comprises housing means 12 forming an armrest or console which is secured to a vehicle for use by passengers. "The housing means 12 includes an upper, flat surface 24 for supporting the arm of the passenger, side surfaces 25, 27 and a lower, flat surface 26 for placement adjacent the vehicle, i.e., resting on the seats 13 of the vehicle. A front surface 28 interconnects the upper surface 24 with the lower surface 26. The assembly 10 may be fixedly secured to vehicle seats 13 as an armrest assembly, or it may be part of a console or it can be part of an instrument panel housing all as commonly known in the art." (See column 2, lines 46-55).

Claims 1, 4 and 5

Appellant's Claims 1, 4 and 5 are directed to a juvenile seat comprising a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides and a seating surface between the sides to receive an occupant, the base having, on at least one of the sides, an upstanding side wall having a cavity facing outwardly away from the seating surface and a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and an opened position extending from the base in which the cup retainer is open upwardly.

Gignac et al. does not disclose a juvenile seat comprising a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides and a seating surface between the sides to receive an occupant. The final office action at page 2 states:

Gignac discloses the use of a juvenile seat (12) comprising a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides (figure 1) and a seating surface between the sides to receive an occupant, the base having on at least one of the sides, an upstanding side wall having a cavity (22) facing outwardly away from the seating surface...."

Gignac et al.'s housing means 12 is an armrest or console, not a juvenile seat comprising a base... having... a seat. One of ordinary skill in the art would not construe Gignac et al.'s armrest to be a juvenile seat. Seating a juvenile on Gignac et al.'s armrest or console would not be safe since, at the very least, there are no seat belts or other safety devices designed to properly restrain the juvenile in the event of a vehicle accident and the juvenile would not be properly positioned to avoid injury (e.g., the juvenile would be seated to high). A juvenile would not be comfortable (or safe) sitting on the armrest, at least, because there is no seat back or sides to support the juvenile's torso and the firmness of an armrest is insufficient to support a seated juvenile.

There is no evidence that Gignac et al.'s armrest is a juvenile seat with a seating surface. Gignac et al. does not describe the armrest as a seating surface and it is improper to assert that it is without evidence that one of ordinary skill in the art would recognize the armrest is a juvenile seat with a seating surface. The argument in the final rejection that Gignac's housing means 12 is a juvenile seat stems from an improper attempt, using appellant's disclosure as a blueprint, to ascribe structure to Gignac's housing means 12 which does not exist.³

The final rejection argues that Gignac et al. meets the claims because Gignac et al. is capable of performing as a juvenile seat adapted to be placed on the seat of a vehicle (final rejection, page 4). For the reasons set forth above, Gignac et al. does not disclose structure capable of performing as a juvenile seat adapted to be placed on the seat of a vehicle. One of ordinary skill in the art would know how to adapt a juvenile seat to be placed on the seat of a vehicle. Juvenile seats are used both in vehicles and outside of vehicles. Juvenile seats are adapted to be placed on the seat of a vehicle so that they can be secured to the vehicle, won't harm the seat, provide proper safety, positioning of the juvenile while in the vehicle, etc. Gignac et al.'s armrest is not a juvenile seat adapted to be placed on the seat of a vehicle. The Court in *In re Venezia*, 189 U.S.P.Q 149 (CCPA, 1976) addressed the claim limitation of "a pair of sleeves... each sleeve of said pair adapted to be fitted over the insulating jacket of one of the cables" by stating "[r]ather than being a mere direction of activities to take place in the future, this language imparts a structural limitation to the sleeve. Each sleeve is so structured or dimensioned that it can be fitted over the insulating jacket or cable." It is submitted that the armrest of Gignac et al. is structure much different from appellant's juvenile seat comprising a base adapted to be placed on a vehicle seat. One of ordinary skill in the art would not mistake one for the other.

³ See, for example, *W. L. Gore and Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 U.S.P.Q 303, 312-13 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

In appellant's Claims 1, 4 and 5 the base has a front, a rear, opposite sides and a seating surface between the sides to receive an occupant with an upstanding side wall having a cavity and a cup holder with retainer which extends into the cavity. The cavity is on a side, not the front or back. In Gignac et al. the cavity is on the front, not a side. The argument in the office action, in effect, states that a juvenile would be seated sideways, not facing forward. Not only would a juvenile not be seated on the armrest, they would not be seated sideways. This is another example of the final rejection's attempt to read appellant's structure into Gignac et al.'s disclosure even though such structure does not exist in Gignac et al.

For all of the above reasons, Gignac et al. does not disclose a juvenile seat as recited in appellant's Claims 1, 4 and 5.

Claim 2

The above arguments with respect to Claims 1, 4 and 5 are also applicable to Claim 2. In addition, Claim 2 states the base provides first and second posts extending into the cavity. The final office action argues in Gignac et al. "the base provides first & second posts (90) extending into the cavity" (page 2, last two lines). In Gignac et al. it is stated:

The assembly 10 includes drive means 90 operatively connecting between the first container holder 32 and the second container holder 80 for sliding the second container holder 80 outwardly and providing access thereto upon pivotal movement of the storage means 30 to the open position. The drive means 90 comprises a pair of parallel linkage arms 90 pivotally connected between the sides of the container holders 32, 80, e.g., the arms 92 each extend between the holders 32, 80. Therefore, the linkage arms 90 will retain the holders 32, 80 at a predetermined spacing. (Column 4, lines 4-14).

Gignac et al.'s linkage arms 90 are not "posts" as recited in Claim 2 and in Gignac there is no base that provides first & second posts extending into the cavity. For at least this additional reason, Gignac et al. does not anticipate Claim 2.

Claim 3

Claim 3 is dependent from Claim 2 and further requires the shell includes first and second connectors, each connector being formed to include a post opening to receive one of the posts, the connectors pivoting about the posts when the cup holder is moved between the closed and the opened positions.

The final rejection states with respect to Claim 3 that “the shell includes first and second connectors (located on the ends of 90), each connector being formed to include a post (90) opening to receive one of the posts, the connectors pivoting about the posts when the cup holder is moved between the closed and opened positions.” This statement in the final rejection is not supported by any language in Gignac et al.’s specification beyond mention that “drive means 90 comprises a pair of parallel linkage arms 90 pivotally connected between the sides of the container holders 32, 80” (column 4, lines 9-11). The connection between arms 90 and container holder 32 is shown in Figs. 2 and 3, but not otherwise described. The above-quoted description in the office action parrots language from appellant’s Claim 3 without explaining where in Gignac et al. there are post openings and other structure as recited in appellant’s Claim 3. The final rejection appears to express that there are such openings without there being any evidence thereof in Gignac et al.’s specification or drawings. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.⁴ Gignac et al. does not disclose the structure recited in Claim 3 and for this reason, as well as the reasons noted above with respect to Claim 2, the final rejection is improper.

Claim 6

Appellant’s Claim 6 recites, in part, a juvenile seat comprising a base formed to include a cavity, adapted to be placed on a vehicle seat and including a front, a rear, and opposite sides, and a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position wherein the cup retainer is positioned in the cavity and the outer surface merges with the upstanding side wall to form an exterior surface of the base and an opened position wherein the cup retainer extends from the base and faces upwardly and the outer surface is separated from the upstanding side wall.

The armrest of Gignac et al., although relied on in the rejection, is not a juvenile seat adapted to be placed on the seat of a vehicle as recited in Claim 6. The cup holder in Gignac et al. does not pivot between a closed position wherein... the outer surface merges with the upstanding side wall to form an exterior surface of the base and an opened position wherein... the outer surface is separated from the upstanding side wall. The cup holder in Gignac et al. extends from the front, not side, portion of the armrest. Gignac et al.’s cup holder is positioned at the front of the center mounted armrest which provides better access for the driver and passenger (positioning elsewhere could interfere with movement or comfort

⁴ *Crown Operations International Ltd. v. Solutia Inc.* 62 U.S.P.Q 2d 1917, 1923 (Fed. Cir. 2002).

of the driver or passenger) and this is not the same structure as the cup holder of appellant's Claim 6 wherein the outer surface merges with the upstanding side wall and is separated from the upstanding sidewall, respectively, as stated in Claim 6. Gignac et al. does not disclose such structure. For all of these reasons, the rejection of Claim 6 should be reversed.

Claim 7

The above arguments with respect to Claim 6 is also applicable to Claim 7 which is dependent from Claim 6. Claim 7 further requires the base includes an upstanding side wall having an inwardly facing wall and an outwardly facing wall, and the cavity is formed in the outwardly facing wall. Inwardly facing wall 24 and outwardly facing wall 26 are shown in appellant's Figs. 1 and 2 and described at page 3 of the specification.

The Final Rejection does not address the inwardly facing wall and outwardly facing wall as recited in Claim 7 and Gignac et al.'s disclosed structure does not have an inwardly facing wall and an outwardly facing wall as recited in Claim 7. For this reason, as well as the reasons noted above with respect to Claim 6, the final rejection of Claim 7 is improper.

Claim 8

Claim 8 is directed to a juvenile seat comprising a base adapted to be placed on a vehicle seat and including a front, a rear, and opposite sides, the base being formed to include a cavity and a cup holder... coupled to the base to pivot between a closed position... and an opened position... and wherein one of the base or the cup holder includes a post and the other of the base or the side wall includes a post opening to receive the post to permit pivoting movement of the cup holder relative to the base.

The final rejection does not specifically address Claim 8 and Gignac et al.'s disclosed linkage arms 90 and associated structure does not have a post, post opening, cup holder and side wall as recited in Claim 8. For this reason and because Gignac et al. does not disclose the other features (e.g., a juvenile seat comprising a base adapted to be placed on a vehicle seat and a cupholder), Gignac et al.'s armrest is not a disclosure of the elements recited in Claim 8. Accordingly, the final rejection of Claim 8 is improper.

Claim 9

Claim 9 is directed to a juvenile seat comprising a base adapted to be placed on a vehicle seat and including a front, a rear, and opposite sides, the base being formed to include a cavity and a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position wherein the cup retainer is positioned in the cavity and an opened position wherein the cup retainer extends from the base and faces upwardly and wherein the base includes an upstanding side wall having an outwardly facing wall, the outwardly facing wall including opposing interior walls extending toward the other side of the base, each interior wall including a post extending into the cavity, the cup holder being pivotably coupled to the posts.

The final rejection does not discuss the structure of appellant's Claim 9 and Gignac et al. does not disclose a base that includes an upstanding side wall having an outwardly facing wall including opposing interior walls extending toward the other side of the base, each interior wall including a post extending into the cavity and the cup holder being pivotably coupled to the posts. Gignac et al.'s disclosed structure does not have an upstanding side wall having an outwardly facing wall including opposing interior walls extending toward the other side of the base as recited in Claim 9. There is no such interior wall in Gignac nor an interior wall with a post extending into the cavity as required by Claim 9. And as expressed above, Gignac et al.'s armrest is not a disclosure of a juvenile seat comprising a base adapted to be placed on a vehicle seat as recited in Claim 9. Accordingly, the final rejection of Claim 9 is improper.

Claim 10

Claim 10 is dependent from Claim 9 and further provides the cup holder includes first and second connectors, each connector having a post opening to receive one of the posts, the posts defining a pivot axis about which the cup holder pivots.

The final rejection does not specifically address Claim 10 and it is evident that Gignac et al. does not provide each connector having a post opening to receive one of the posts and the posts defining a pivot axis about which the cup holder pivots. Gignac et al. does not disclose the structure recited in Claim 10 and for this reason, as well as the reasons noted above with respect to Claim 9, the final rejection is improper.

Claim 11

Claim 11 is directed to a juvenile booster seat adapted to be placed on a vehicle seat comprising a front, opposite sides, a seating surface between the sides, and a back, and a cup holder having a shell and a cup retainer coupled to the shell, the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position placing the shell alongside said one of the sides of the booster seat and preventing access to the cup retainer and an opened position permitting access to the cup retainer.

The final rejection does not specifically address Claim 11 and it is evident that Gignac et al. does not provide the combination of elements of Claim 11 including a juvenile booster seat adapted to be placed on a vehicle seat and a cup holder being coupled to one of the sides of the booster seat to pivot between a closed position placing the shell alongside one of the sides of the booster seat. Thus, the final rejection of Claim 11 is improper.

Claim 12

Claim 12 is dependent from Claim 11 and further provides the one side comprises a generally inwardly facing wall and a generally outwardly facing wall, the outwardly facing wall having a cavity therein to receive at least a portion of the cup retainer in the closed position.

There is no discussion of Claim 11 in the final rejection and it is evident that Gignac et al. does not provide one side which comprises a generally inwardly facing wall and a generally outwardly facing wall having a cavity therein to receive at least a portion of the cup retainer in the closed position. Gignac et al. does not disclose the structure recited in Claim 12 and for this reason, as well as the reasons noted above with respect to Claim 11, the final rejection is improper.

Claim 13

Claim 13 is dependent from Claim 12 which provides the shell includes an outer surface and an inner surface providing the cup retainer, the cup retainer being positioned in the cavity when the cup holder is in the closed position.

For the reasons expressed above with respect to Claims 11 and 12, Gignac et al. does not provide the claimed combination of elements including a shell with an outer surface and an inner surface providing the cup retainer, the cup retainer being positioned in the cavity when the cup holder is in the closed position. Gignac et al. does not disclose the structure recited in Claim 13 and for this reason, as well as the reasons noted above with respect to Claim 12, the final rejection is improper.

Claim 14

Claim 14 is dependent from Claim 13 which provides the outwardly facing wall is convex, and the outer surface is continuous with the outwardly facing wall when the cup holder is in the closed position.

For the reasons express above with respect to Claims 11 - 13 Gignac et al. does not provide the claimed combination of elements including the additional limitations of Claim 14. Gignac et al. does not disclose the structure recited in Claim 14 and for this reason, as well as the reasons noted above with respect to Claim 13, the final rejection is improper.

Claim 15

The Final Rejection, in the penultimate line of page 3 and continuing to line 4 of page 4, states:

[i]n regards to Claims 15-16, further comprising the shell including a first hinged portion and the side the cup holder is coupled to include [sic, includes] a second hinged portion, the coupling between the cup holder and the one of the sides being provided by the hinged portions; the shell includes an upper portion and a lower portion and when the user applies a force to the lower portion of the shell, the cup holder pivots toward the opened position.

Notwithstanding that the above language argues that Gignac et al. discloses the claimed limitations, Gignac et al.'s hinge 60 is not attached to a side and there is no side with a second hinged portion. As expressed above, Gignac et al. does not disclose a juvenile booster seat adapted to be placed on a vehicle seat much less a front, opposite sides, a seating surface between the sides, and a back, or the cup holder, all as recited in Claim 15. Reversal of the rejection of Claim 15 is requested.

Claim 16

Claim 16 is dependent from Claim 15 which provides wherein the shell includes an upper portion and a lower portion, and when the user applies a force to the lower portion of the shell, the cup holder pivots toward the opened position. This is described in appellant's specification at, for example, page 4, lines 9-11.

Claim 16 is allowable for the reasons expressed above with respect to Claim 15 and additionally because Gignac et al. does not provide structure so that when the user applies a force to the lower portion of the shell, the cup holder pivots toward the opened position. In Gignac et al. it is stated that:

[d]epression of the actuating member 65 disengages it from the notch 66 allowing the storage means 30 to open. The storage means 30 also includes pivot control means 70 for biasing the storage means 30 in the open position whereby upon release of the latch means 64, the storage means 30 pivots from the closed position to the open position. The control means 70 includes a spring loaded and damped tracking mechanism for controlling movement of the pivoting motion. The mechanism 70 is of the type parallel link tracking mechanism. (Column 3, lines 45-56).

Hence, Gignac et al. does not disclose the structure recited in Claim 16 and for this reason, as well as the reasons noted above with respect to Claim 15, the final rejection of Claim 16 is improper.

Claim 17

Claim 17 is directed to a juvenile booster seat adapted to be placed on a vehicle seat comprising a front, opposite sides, a seating surface between the sides, and a back, and a cup holder having a shell and a cup retainer, the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position preventing access to the cup retainer and an opened position permitting access to the cup retainer, wherein the shell includes an outer shell surface and an inner shell surface, and the side to which the cup holder is coupled includes a support edge to contact a portion of the outer shell surface to support the cup holder in the opened position, the support edge having a shape to match the shape of the portion of the outer shell surface so contacted.

Page 4, lines 12-19 and Fig 3. of appellant's disclosure describes the support edge and outer shell surface support recited in Claim 17. Gignac et al. does not disclose the support edge and outer shell surface support, or a juvenile booster seat adapted to be placed on a vehicle seat, a front, opposite sides, a seating surface between the sides, and a back, or the cup holder, all as recited in Claim 17. Reversal of the rejection of Claim 17 is requested.

Conclusion of Argument

From the above, it is readily apparent that Gignac et al. does not anticipate Claims 1-17 and the Final Rejection is in error. The Final Rejection provides conclusions without proper reasons explaining the conclusions. Rather, the Final Rejection action just summarily rejects all of the claims without adequate explanation. For the foregoing reasons, the appellant, respectfully, requests that the rejection of Claims 1-17 be reversed and the application with Claims 1-17 be allowed.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages in other fees, be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 (20341/68796).

Respectfully submitted,
BARNES & THORNBURG



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RBL/sld

Attachment:
Appendix (Claims 1-17)

APPENDIX

CLAIMS 1-17

1. A juvenile seat comprising

a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides and a seating surface between the sides to receive an occupant, the base having, on at least one of the sides, an upstanding side wall having a cavity facing outwardly away from the seating surface,

a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and the outer surface merges with the upstanding side wall to form an exterior surface of the base and an opened position extending from the base in which the cup retainer is open upwardly and the outer surface is separated from the upstanding side wall.

2. A juvenile seat comprising

a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides and a seating surface between the sides to receive an occupant, the base having, on at least one of the sides, an upstanding side wall having a cavity facing outwardly away from the seating surface,

a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and an opened position extending from the base in which the cup retainer is open upwardly, wherein the base provides first and second posts extending into the cavity.

3. The juvenile seat of claim 2, wherein the shell includes first and second connectors, each connector being formed to include a post opening to receive one of the posts, the connectors pivoting about the posts when the cup holder is moved between the closed and the opened positions.

APPENDIX (CONT'D)

PAGE A2

4. A juvenile seat comprising

a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides and a seating surface between the sides to receive an occupant, the base having, on at least one of the sides, an upstanding side wall having a cavity facing outwardly away from the seating surface,

a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and an opened position extending from the base in which the cup retainer is open upwardly, wherein the outer shell surface has a convex shape, the upstanding side wall has a convex shape, and the outer shell surface cooperates with the side wall to continue the convex shape of the side wall to form a smooth convex shape when the cup holder is in the closed position.

5. A juvenile seat comprising

a base adapted to be placed on a vehicle seat and having a front, a rear, opposite sides and a seating surface between the sides to receive an occupant, the base having, on at least one of the sides, an upstanding side wall having a cavity facing outwardly away from the seating surface,

a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position in which the cup retainer extends into the cavity and an opened position extending from the base in which the cup retainer is open upwardly, wherein at least one of the base or the cup holder includes a detent to engage a recess provided by the other of the cup holder or the base to prevent free movement of the cup holder from the closed position.

6. A juvenile seat comprising

a base adapted to be placed on a vehicle seat and including a front, a rear, and opposite sides, the base being formed to include a cavity,

a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position wherein the cup retainer is positioned in the cavity and the outer surface merges with the upstanding side wall to form an exterior surface of the base and an opened position wherein the cup retainer extends from the base and faces upwardly and the outer surface is separated from the upstanding side wall.

APPENDIX (CONT'D)

PAGE A3

7. The juvenile seat of claim 6, wherein the base includes an upstanding side wall having an inwardly facing wall and an outwardly facing wall, and the cavity is formed in the outwardly facing wall.

8. A juvenile seat comprising

a base adapted to be placed on a vehicle seat and including a front, a rear, and opposite sides, the base being formed to include a cavity,

a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position wherein the cup retainer is positioned in the cavity and an opened position wherein the cup retainer extends from the base and faces upwardly and wherein one of the base or the cup holder includes a post and the other of the base or the side wall includes a post opening to receive the post to permit pivoting movement of the cup holder relative to the base.

9. A juvenile seat comprising

a base adapted to be placed on a vehicle seat and including a front, a rear, and opposite sides, the base being formed to include a cavity,

a cup holder comprising a shell having an inner surface providing a cup retainer and an outer surface, the cup holder being coupled to the base to pivot between a closed position wherein the cup retainer is positioned in the cavity and an opened position wherein the cup retainer extends from the base and faces upwardly and wherein the base includes an upstanding side wall having an outwardly facing wall, the outwardly facing wall including opposing interior walls extending toward the other side of the base, each interior wall including a post extending into the cavity, the cup holder being pivotably coupled to the posts.

10. The juvenile seat of claim 9, wherein the cup holder includes first and second connectors, each connector having a post opening to receive one of the posts, the posts defining a pivot axis about which the cup holder pivots.

11. A juvenile booster seat adapted to be placed on a vehicle seat comprising

a front, opposite sides, a seating surface between the sides, and a back, and

a cup holder having a shell and a cup retainer coupled to the shell, the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position placing the shell alongside said one of the sides of the booster seat and preventing access to the cup retainer and an opened position permitting access to the cup retainer.

APPENDIX (CONT'D)

PAGE A4

12. The juvenile booster seat of claim 11, wherein the one side comprises a generally inwardly facing wall and a generally outwardly facing wall, the outwardly facing wall having a cavity therein to receive at least a portion of the cup retainer in the closed position.

13. The juvenile booster seat of claim 12, wherein the shell includes an outer surface and an inner surface providing the cup retainer, the cup retainer being positioned in the cavity when the cup holder is in the closed position.

14. The juvenile booster seat of claim 13, wherein the outwardly facing wall is convex, and the outer surface is continuous with the outwardly facing wall when the cup holder is in the closed position.

15. A juvenile booster seat adapted to be placed on a vehicle seat comprising a front, opposite sides, a seating surface between the sides, and a back, and a cup holder having a shell and a cup retainer, the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position preventing access to the cup retainer and an opened position permitting access to the cup retainer, wherein the shell includes a first hinge portion, and the side to which the cup holder is coupled includes a second hinge portion, the coupling between the cup holder and the one of the sides being provided by the hinge portions.

16. The juvenile booster seat of claim 11, wherein the shell includes an upper portion and a lower portion, and when the user applies a force to the lower portion of the shell, the cup holder pivots toward the opened position.

17. A juvenile booster seat adapted to be placed on a vehicle seat comprising a front, opposite sides, a seating surface between the sides, and a back, and a cup holder having a shell and a cup retainer, the cup holder being coupled to one of the sides of the booster seat to pivot between a closed position preventing access to the cup retainer and an opened position permitting access to the cup retainer, wherein the shell includes an outer shell surface and an inner shell surface, and the side to which the cup holder is coupled includes a support edge to contact a portion of the outer shell surface to support the cup holder in the opened position, the support edge having a shape to match the shape of the portion of the outer shell surface so contacted.